

**UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

Constellation Mystic Power, LLC)	
Petitioner,)	
)	
v.)	No. 24-1077
)	
Federal Energy Regulatory)	
Commission,)	
Respondent)	

**UNOPPOSED MOTION OF RESPONDENT FEDERAL
ENERGY REGULATORY COMMISSION TO HOLD
APPEAL IN ABEYANCE FOR 60 DAYS AND TO SUSPEND
FILING OF THE CERTIFIED INDEX TO THE RECORD**

Pursuant to Rule 27 of the Federal Rules of Appellate Procedure and Circuit Rule 27, Respondent Federal Energy Regulatory Commission moves this Court to hold this appeal in abeyance for 60 days and to suspend filing of the certified index to record. The Commission also requests that the Court direct the parties to file motions to govern further proceedings after the abeyance period ends.

Abeyance is requested because the Commission has given notice that it intends to issue a further order on rehearing in the underlying Commission proceeding. Counsel for the Commission has contacted

counsel for petitioner and is authorized to state that petitioner does not oppose this motion.

This appeal arises from a Commission order regarding challenges to an annual informational filing submitted by petitioner Constellation Mystic Power, LLC (Constellation). The Commission granted in part and rejected in part the challenges to Constellation's filing and found that the information filing raises issues of material fact that cannot be resolved on the record before the Commission. So the Commission set the matter for hearing and settlement judge procedures. *Constellation Mystic Power, LLC*, 185 FERC ¶ 61,170 (2023).

Constellation filed a request for rehearing of that order. On February 5, 2024, the Commission issued a "Notice of Denial of Rehearing by Operation of Law and Providing for Further Consideration," in which the Commission gave notice that it will address the pending request for rehearing in a future order. *Constellation Mystic Power, LLC*, 186 FERC ¶ 62,048 (2024).

Petitioner's request for rehearing remains pending before the Commission.

Holding this appeal in abeyance and suspending the filing of the certified index will serve the interests of judicial economy by avoiding piecemeal appeals and will provide the Court with the benefit of the Commission's findings on rehearing. In addition, abeyance will allow the Commission to retain jurisdiction to address the pending request for further agency rehearing and to affirm, modify, or set aside its order in whole or in part. *See* 16 U.S.C. § 825l(b).

Accordingly, the Commission requests that the petition for review be held in abeyance for 60 days, with the parties to file motions to govern further proceedings after the abeyance period ends. The parties reserve the right to file procedural and dispositive motions in the future as appropriate.

Respectfully submitted,

/s/ Beth G. Pacella

Beth G. Pacella
Deputy Solicitor

Federal Energy Regulatory
Commission
Washington, D.C. 20426
Office: (202) 502-6048
Email: beth.pacella@ferc.gov

May 6, 2024

CERTIFICATE OF COMPLIANCE

Pursuant to Fed. R. App. P. 32(g), I certify that this motion complies with the type-volume limitation of Fed. R. App. P. 27(d)(2)(A) because this motion contains 437 words, excluding the parts exempted by Fed. R. App. P. 32(f).

I further certify, pursuant to Fed. R. App. P. 27(d)(1)(E), that this motion complies with the type-face requirements of Fed. R. App. P. 32(a)(5) and the type-style requirements of Fed. R. App. P. 32(a)(6) because this motion has been prepared in Century Schoolbook 14-point font using Microsoft Word 365.

/s/ Beth G. Pacella

Beth G. Pacella
Deputy Solicitor

Federal Energy Regulatory
Commission
888 First Street, NE
Washington, DC 20426
Telephone: (202) 502-6048
Email: beth.pacella@ferc.gov

May 6, 2024

CERTIFICATE OF SERVICE

I hereby certify that, on May 6, 2024, a copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Beth G. Pacella

Beth G. Pacella
Deputy Solicitor

Federal Energy Regulatory
Commission
888 First Street, NE
Washington, DC 20426
Telephone: (202) 502-6048
Email: beth.pacella@ferc.gov